

Docket No.: NHL-NP-37  
Serial No.: 10/057,311  
Customer No.: 00432

**REMARKS**

The Office Action dated March 9, 2004, has been reviewed in detail and the application has been amended in the sincere effort to place the same in condition for allowance. Reconsideration of the application and allowance in its amended form are requested based on the following remarks.

Applicants retain the right to pursue broader claims under 35 U.S.C. §120.

Applicants have provided a unique solution with respect to problems regarding COVALENTLY CLOSED NUCLEIC ACID MOLECULES FOR IMMUNOSTIMULATION. Applicants' solution is now claimed in a manner that satisfies the requirements of 35 U.S.C. §§103 and 112.

**Allowable Subject Matter:**

On page 12 of the outstanding Office Action, the Examiner indicated that Claims 43-52 would be allowable if amended to recite only the elected sequences, SEQ ID Nos. 1 and 5, and not the non-elected sequences, SEQ ID Nos. 2 and 3. Independent Claims 43 and 46 have been amended herein to recite only elected sequence

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SEQ ID No. 1.

In addition, the Examiner did not address in the Office Action the allowability of SEQ ID No. 4, which is recited in dependent Claims 44 and 47. In a telephone conversation with the undersigned, the Examiner stated that SEQ ID No. 4 was not mentioned in the Office Action because a search of the sequence database for SEQ ID No. 4 had not been performed. However, since SEQ ID No. 4 is closely related to SEQ ID No. 1, the Examiner stated that a search would be conducted relating to SEQ ID No. 4. In a subsequent telephone conversation on May 17, 2004, between the Examiner and an associate of the undersigned, the Examiner stated that the search was conducted and SEQ ID No. 4 was allowable over the prior art.

Dependent Claim 50 has been canceled herein, without prejudice, because it did not further limit the claim from which it directly depends, specifically Claim 46 as amended herein.

In view of the above, it is respectfully submitted that Claims 43-49, 51, and 52 are in condition for allowance.

**Rejection of Claims 1-3 Under 35 U.S.C. §103:**

Claims 1-3 were rejected under 35 U.S.C. §103 as being

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unpatentable over Krieg et al. in view of Erie et al. and Wolters et al. Claims 1-3 have been canceled herein, without prejudice, thereby rendering the present rejection against these claims moot.

**Rejection of Claims 1-3 and 53-59 Under 35 U.S.C. §112, First and Second Paragraphs:**

Claims 1-3 and 53-59 were rejected under 35 U.S.C. §112, first and second paragraphs for the reasons set forth on pages 3-10 of the outstanding Office Action. Claims 1-3 and 53-59 have been canceled herein, without prejudice, thereby rendering the present rejections against these claims moot.

**Art Made of Record:**

The prior art made of record and not applied has been carefully reviewed, and it is submitted that it does not, either taken singly or in any reasonable combination with the other prior art of record, defeat the patentability of the present invention or render the present invention obvious. Further, Applicants are in agreement with the Examiner that the prior art made of record and not applied does not appear to be material to the patentability of the claims currently pending in this application.

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In view of the above, it is respectfully submitted that this application is in condition for allowance, and early action towards that end is respectfully requested.

**Summary and Conclusion:**

It is submitted that Applicants have provided a new and unique COVALENTLY CLOSED NUCLEIC ACID MOLECULES FOR IMMUNOSTIMULATION. It is submitted that the claims, as amended, are fully distinguishable from the prior art. Therefore, it is requested that a Notice of Allowance be issued at an early date.

If mailed, I, the person signing this certification below, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the date indicated in the certification of mailing on the transmittal letter sent herewith, or if facsimile transmitted, I, the person signing this certification below, hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated in the certification of facsimile transmission on the transmittal letter which is

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Respectfully submitted,



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